



City of NORFOLK


C: Dir., Department of Public Works

To the Honorable Council
City of Norfolk, Virginia

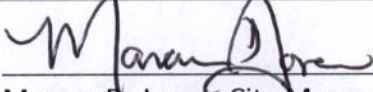
August 25, 2015

From: David L. Ricks, Director of Public Works

Subject: Emergency Procurement
July 2015

Reviewed: 
Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved: 
Marcus D. Jones, City Manager

Item Number: C-1

- I. **Recommendation:** Receive and file.
- II. **Applicant:** City of Norfolk
- III. **Description:**
Emergency Procurement necessary to reconstruct the Selden Arcade following an explosion.
- IV. **Analysis**
On April 17, 2015 at approximately 8:15 p.m., an explosion occurred at the Selden Arcade. Crews temporarily shored up the building's structural integrity to allow the Fire Marshall's Office to investigate. The force of the explosion destroyed water and electrical service and portions of the building are structurally unsafe.
- V. **Financial Impact**
Restoration and repair of the Selden Arcade structure and primary electrical/mechanical systems is expected to cost between \$1.0M to \$1.2M and affect FY 2016 funding. Initial encumbrance was \$210,000 from FY 2015 and \$290,000 from FY 2016. The City of Norfolk ("City") has received \$200,000 reimbursement from the insurance company, thus far. The City will receive periodic payments as repairs are made. Scope of repairs to tenant spaces has not yet been determined.
- VI. **Environmental**
N/A

VII. Community Outreach/Notification

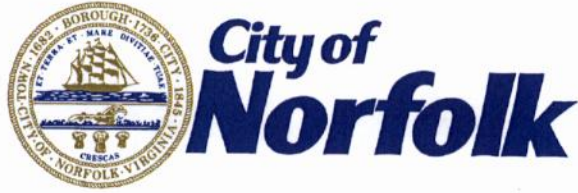
N/A

VIII. Board/Commission Action

N/A

IX. Coordination/Outreach

Local businesses D'Egg and Starbucks continue to run on generators. It is estimated that this will continue until the end of October.



Inter Department Correspondence Sheet

TO: _____ Marcus Jones, City Manager

FROM: _____ Sid Kitterman, City Engineer

COPIES TO: _____ David L. Ricks, P.E., Director of Public Works

SUBJECT: _____ Report of Emergency/Sole Source Procurement

July 31, 2015

The following report of emergency/sole source procurements for the month of July forwarded in accordance with City Code Chapter 33.1-41:

1. Description of Procurement (sole source): Selden Arcade Emergency Repairs

Department: Public Works
Contractor: W. M. Jordan Company, Inc.
Amount: \$500,000.00 (initial contract)
Justification: See attached.


J. S. (Sid) Kitterman, III


JSK/tma



NORFOLK

Department of Public Works

TO: Marcus D. Jones, City Manager

FROM: David L. Ricks, Director of Public Works 

COPIES TO: Sabrina Joy-Hogg, Deputy City Manager; Sid Kitterman, City Engineer; Karen Colombo, Budget Manager

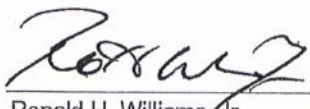
SUBJECT: Request for Emergency Procurement

DATE: May 20, 2015

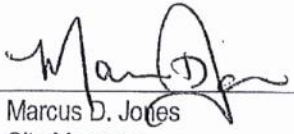
Based upon the facts and analysis set forth in the memorandum from Martha P. McGann, Deputy City Attorney, a copy of which is attached, approval is requested for emergency procurements to repair damages in a timely and expeditious manner so as to restore structural integrity to damaged areas, restore conditioned air to the facility, which will stem any degradation due to environmental conditions, and restore life safety systems (including fire alarm, detection devices, and sprinkler systems) to remove threat of fire or other damage. Approval is requested to have W.M. Jordan Company, Inc. to perform the following work under a Construction Manager as Constructor:

1. Demolish damaged structures in the vicinity of the electrical room that require removal to allow for replacement work or to ensure a safe working environment in this area. This scope generally includes removal of the mezzanine structure in the electrical room; removal of exterior wall that sustained damage; removal of the electrical room floor slab and abandoned conduits and pipes underneath; careful disassembly, repair, and reinstallation of precast concrete column covers in the area; and removal and replacement of the stair to the basement underneath the electrical room.
2. Installation of a new electrical duct bank under the electrical room; infill of the crawlspace under the electrical room with stone; and repouring of the concrete slab floor.
3. Reconstruction of the exterior wall adjacent to the electrical room; repair of the masonry wall on the south side of the electrical room; repair or replacement of steel structural members, including roof joists that were damaged; reconstruction of interior walls, ceilings, headers, or other construction necessary to reconstruct a functional and structurally sound electrical room.
4. Replace electrical switchgear, panels, conductors, and other components and repair electrical duct bank to restore power to the Selden Arcade; After power is restored, make all connections, tests, and repairs necessary to provide electrical service throughout the building, thereby allowing testing and restoration of mechanical and life safety systems to provide safe, air conditioned space within the Selden Arcade.

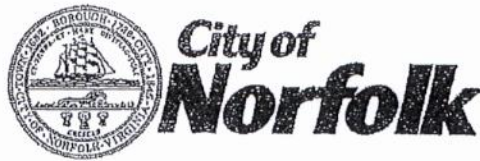
ATTACHMENT A

Recommended: 
Ronald H. Williams, Jr.
Deputy City Manager

Date: 5/20/15

Approved: 
Marcus D. Jones
City Manager

Date: 5/21/15



Inter Department Correspondence Sheet

TO: Marcus D. Jones, City Manager
FROM: Martha P. McGann, Deputy City Attorney
COPIES TO: See Distribution List
SUBJECT: Emergency Procurement -- Selden Arcade

May 18, 2015

This memorandum addresses the issue of whether the current conditions resulting from the explosion at Selden Arcade that occurred on April 17, 2015, constitute an emergency, necessitating procurement of construction and related services under the Emergency Procurement Code provision and regulations. It also addresses the selection of contractors and records and reporting requirements and insurance considerations.

FACTS

As you know, on Friday, April 17, 2015, an explosion occurred at the Selden Arcade. The explosion was deemed an emergency condition which created a threat to public health, welfare and safety, thereby necessitating procurement of various damage assessment and repair services under the Emergency Procurement provision and regulations under the City Code, § 33.1-41 and R 33.1-41), a copy of which is attached.

Approval for certain immediate repairs was provided pursuant to the request set forth in the memorandum from David L. Ricks dated April 21, 2015, a copy of which is attached. Under that memorandum, initial damage assessment services under Structural Engineer and Mechanical/Electrical IDQ agreements was approved. Approval was also provided for demolition and debris removal services and temporary shoring of structural damage.

ANALYSIS

The issue is whether there is an ongoing threat to public health, welfare or safety, which necessitates procurement of additional services under the Emergency Procurement provision and regulations under the City Code at this time.

Section 33.1-41, the Emergency Procurement Code provision, provides, in pertinent part:

In the event of a threat to public health, welfare, or safety, a contract may be awarded without competitive sealed bidding, competitive sealed proposals or competitive negotiation. Such procurement, however, shall be made with such competition as is practicable under the circumstances. In addition to regular reports of emergency public works according to Charter section 81, any emergency

procurement which would have required competitive sealed bidding, competitive sealed proposals or competitive negotiation under non-emergency conditions shall be reported to the city council on a monthly basis.

The emergency procurement regulations provide details as to what constitutes an emergency. Specifically, paragraph A of R 33.1-41 provides that:

Determination of emergency conditions. An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be proclaimed by the city manager. Such condition creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of the city, the preservation or protection of city property, or the health or safety of any person.

R 33.1-41 (Emphasis Added).

I have made a site visit and consulted with Sid Kitterman and concur in the opinion of Public Works engineers that the current conditions at Selden Arcade constitute a serious threat to the preservation or protection of City property, which necessitates an immediate need for repairs and construction. The structural integrity of the building is compromised. The building cannot be occupied by tenants or the public as there is no power and it is not a conditionable space. Without the ability to air condition the space, there may be further degradation of the interior, including the walls, floors, ceilings and other finishes in the building. This could result in the formation of mold, which can be a serious threat to public health. In addition, without functional life safety systems (including fire alarm, detection devices, and sprinkler systems), there is a potential threat to the structure or possibly other adjacent structures in the event of a fire. The lack of life safety systems also creates a serious threat to public health and safety.

Accordingly, there is an immediate necessity to restore structural integrity to damaged areas, restore conditioned air to the facility, in order to protect against any degradation of the property due to environmental conditions, and restore life safety systems to remove threat of fire or other damage. Restoration of these conditions requires the following general sequence of activities to be performed expeditiously:

1. Demolition of damaged structures in the vicinity of the electrical room that requires removal to allow for replacement work or to ensure a safe working environment in this area. This scope generally includes removal of the mezzanine structure in the electrical room; removal of exterior wall that sustained damage; removal of the electrical room floor slab and abandoned conduits and pipes underneath; careful disassembly, repair, and reinstallation of precast concrete column covers in the area; and removal and replacement of the stair to the basement underneath the electrical room.
2. Installation of a new electrical duct bank under the electrical room; infill of the crawlspace under the electrical room with stone; and repouring of the concrete slab floor.

3. Reconstruction of the exterior wall adjacent to the electrical room; repair of the masonry wall on the south side of the electrical room; repair or replacement of steel structural members, including roof joists that were damaged; reconstruction of interior walls, ceilings, headers, or other construction necessary to reconstruct a functional and structurally sound electrical room.
4. Replace electrical switchgear, panels, conductors, and other components and repair electrical duct bank to restore power to the Selden Arcade; After power is restored, make all connections, tests, and repairs necessary to provide electrical service throughout the building, thereby allowing testing and restoration of mechanical and life safety systems to provide safe, air conditioned space within the Selden Arcade.

It is recommended that the City contract with W.M. Jordan Company, Inc. for Construction Manager as Constructor for repairs and restoration in accordance with paragraph B of R 33.1-41, which provides:

Source selection. Under emergency conditions the city manager, a departmental director or their designees may negotiate directly for emergency procurements which are required to meet the emergency. The authorized procuring agent shall direct the procurement action if circumstances permit. Such procurements shall ensure such competition as is practicable under the circumstances and shall be conducted in a manner which most closely parallels the normal procedure, taking into consideration the nature of the emergency and the time available for procurement action. As required by Charter 78, a sufficient appropriation must exist against which an emergency procurement may be charged.

W.M. Jordan Company, Inc. was prequalified through the Selden Arcade South Façade Rehabilitation proposal process, is currently mobilized on the adjacent Downtown Conference Center site and has available resources to devote to the restoration work on an expedited basis.

W.M. Jordan, Inc. will solicit competitive pricing for defined scopes of subcontract work, including demolition, concrete repairs, structural repairs, masonry and interior finishes. For subcontract scopes, that require concurrent investigation and design solutions while making repairs, including electrical repairs, fire suppression system repairs, HVAC repairs and plumbing repairs, W.M. Jordan, Inc. will select subcontractors with expertise, resources and availability to best perform the work.

The regulations also require that certain records must be prepared and maintained. Paragraph C of R 33.1-41 provides:

Records. As soon as practicable, a record of each emergency procurement shall be made which sets forth the basis of the emergency, the competitive measures taken, and the reason for the selection of the particular contractor. Documentation of emergency procurement shall include a requisition and a confirmation purchase order when the procurement is one which would have been handled in non-emergency situations by the purchasing agent, or a contract when the procurement

would have been handled in non-emergency situations by other procuring agents. In any case the record shall list:

1. the contractor's name;
2. the amount and type of the contract;
3. a listing of the goods, services, or construction procured under the contract;
4. identification of the contract file.

Because the emergency condition requires immediate procurement of construction, inspection and testing which constitutes a public work, the procuring agent for such services is the Director of Public Works under § 33.1-23 (1) of the City Code. Accordingly, Public Works will provide the proper documentation and maintain the records required under the Code and regulations.

The reporting requirements for emergency procurements are set forth in paragraph D of R 33.1-41, which provides:

Reports. Determinations and records of emergency procurements in excess of fifty thousand dollars (\$50,000) shall be sent promptly to the city manager. In addition to reports of emergency public works according to Charter 81, the city manager will report emergency procurements to the city council on a monthly basis.

Accordingly, each contract procured under the emergency procurement must be reported to the City Council monthly.

Finally, because the Travelers, the City's property insurance carrier for Selden Arcade, may ultimately pay for the work and have a subrogation claim against other carriers, I recommend that the Travelers be kept apprised of the details with regard to the procurement of construction and related services under the emergency procurement provision. It is my understanding that Public Works has done so thus far and that the Traveler's has not voiced any objections as to the manner of procurement or pricing for the emergency work performed to date.

CONCLUSION AND RECOMMENDATION

Based upon the foregoing, it is recommended that you make a determination that the current conditions at Selden Arcade constitute an emergency as they constitute a serious threat to the preservation or protection of City property. There is an immediate need for repairs and construction as set forth above. It is recommended that the City enter into an agreement with W.M. Jordan Company, Inc. for the emergency repairs construction as it was prequalified through the Selden Arcade South Façade Rehabilitation proposal process, is currently mobilized on the adjacent Downtown Conference Center site and has available resources to devote to the restoration work on an expedited basis. Public Works will prepare documentation and maintain the records of the contract as required under the regulations. The regulations require monthly reporting to City Council of contracts procured under emergency procurement. I also recommend that the

Travelers be kept apprised of the details with regard to the procurement of construction and related services under the emergency procurement provision.

If you have any questions, please let me know.

Martha

Martha P. McGann
Deputy City Attorney

cc: Bernard A. Pishko, City Attorney
Ronald H. Williams, Jr., Deputy City Manager
David L. Ricks, Director of Public Works
J. Sid Kitterman, III, City Engineer

Sec. 33.1-41. Emergency procurement.

In the event of a threat to public health, welfare, or safety, a contract may be awarded without competitive sealed bidding, competitive sealed proposals or competitive negotiation. Such procurement, however, shall be made with such competition as is practicable under the circumstances. In addition to regular reports of emergency public works according to Charter section 81, any emergency procurement which would have required competitive sealed bidding, competitive sealed proposals or competitive negotiation under non-emergency conditions shall be reported to the city council on a monthly basis.

R 33.1-41. Procedure.

A. Determination of emergency conditions. An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, or such other reason as may be proclaimed by the city manager. Such condition creates an immediate and serious need for goods, services, or construction that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of the city, the preservation or protection of city property, or the health or safety of any person.

B. Source selection. Under emergency conditions the city manager, a departmental director or their designees may negotiate directly for emergency procurements which are required to meet the emergency. The authorized procuring agent shall direct the procurement action if circumstances permit. Such procurements shall ensure such competition as is practicable under the circumstances and shall be conducted in a manner which most closely parallels the normal procedure, taking into consideration the nature of the emergency and the time available for procurement action. As required by Charter 78, a sufficient appropriation must exist against which an emergency procurement may be charged.

C. Records. As soon as practicable, a record of each emergency procurement shall be made which sets forth the basis of the emergency, the competitive measures taken, and the reason for the selection of the particular contractor. Documentation of emergency procurement shall include a requisition and a confirmation purchase order when the procurement is one which would have been handled in non-emergency situations by the purchasing agent, or a contract when the procurement would have been handled in non-emergency situations by other procuring agents. In any case the record shall list:

- 1. the contractor's name;*
- 2. the amount and type of the contract;*
- 3. a listing of the goods, services, or construction procured under the contract;*
- 4. identification of the contract file.*